

Chapter 17

ETHICS

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[HISTORY: Adopted by the Board of Trustees of the Village of Alden: Art. I, 11-12-1970 as L.L. No. 6-1970 (Ch. 12, Art. I, of the 1966 Code); Art. II, 11-12-1970 as L.L. No. 7-1970 (Ch. 12, Art. II, of the 1966 Code). Amended in its entirety 6-24-2004 By L.L. No. 1-2004. Subsequent amendments noted where applicable.]

ARTICLE I General Provisions

§ 17-1. Purpose.

This Code establishes minimum standards of ethical conduct for Village Employees to help ensure that the business of government is free from improper influence that may

result from opportunities for private gain. This law requires timely and public disclosure of interests that may influence the actions of Village employees. This Code is intended to facilitate consideration of potential problems before they arise, to minimize unwarranted suspicion, and to enhance the accountability of government to the people.

§ 17-2. Applicability of other laws.

The standards, prohibited acts and procedures established herein are in addition to any prohibited acts, conflict of interest provisions or procedures prescribed by statute of the State of New York, and also in addition to common-law rules and judicial decisions relating to the conduct of Village employees to the extent that the same are more severe in their application than this Code.

ARTICLE II Code of Ethics

§ 17-3. Definitions.

As used in this Code, the following terms shall have the meanings indicated:

BOARD - Village Board of the Village of Alden.

CODE - Code of Ethics of the Village of Alden.

DEPENDENT - Son, daughter, stepson, stepdaughter or any other person who could be claimed as a dependent for Federal income tax purposes.

DOING BUSINESS WITH THE VILLAGE - Having or providing any contract, service, or work with the Village; buying, selling, renting, leasing, or otherwise acquiring from or dispensing to the Village any goods, services or property.

FAMILY MEMBER - Spouse, spouse's siblings, parent, parents-in-law, sibling, child, stepchild, grandparent, aunt, uncle, niece, nephew, grandchild and their spouses.

INTEREST:

- (1) Any activity, other than service to the Village, from which a Village Employee receives compensation for services rendered or goods sold or produced.

- (2) Any entity, other than the Village, from which a Village Employee receives compensation for services rendered or goods sold or produced; or
- (3) Any entity in which a Village Employee directly owns five percent (5%) or greater of the outstanding stock.

MINISTERIAL ACT - Any action of a Village Employee done in the ordinary course of his or her duties not requiring the use of judgment.

RECUSAL - The act or process of disqualifying oneself by reason of prejudgment, bias or interest in a subject matter or action.

SPOUSE - The husband or wife of the Village Employee unless living separate and apart from the employee or separated pursuant to a judicial order, decree or judgment, or a legally binding separation agreement.

VILLAGE - The Village of Alden, any of its agencies, boards, committees or departments.

VILLAGE EMPLOYEE - Any person working for the Village of Alden, whether elected or appointed, paid or unpaid, serving in a full-time, part-time or advisory capacity.

§ 17-4. Standards of conduct.

- A. Ethics and integrity become recognized characteristics of an organization only when they exist in the people who make up the organization. For ethics and integrity to be recognized as hallmarks of Alden Village Government, each Village Employee must be committed to the following standards of conduct:
 - (1) Honest, open and trustworthy in all relationships.
 - (2) Reliable and consistent in conduct of assignments and responsibilities; doing that which is right rather than expedient.
 - (3) Objective, constructive, and responsive in work performance.
 - (4) Truthful, complete and accurate in what is said and done.
 - (5) Committed to the assignments entrusted to him or her, with accountability for what he or she does and chooses not to do.
 - (6) Careful and economical in use of all Village resources.

- (7) Respect for the work of others; giving credit and refraining from criticism unless warranted.
- (8) Freedom from involvement in activities that could compromise the employee, his or her position with the Village, or the Village itself.

Achieving high standards of ethics and integrity requires hard work, courage, and making difficult choices. Consultation among fellow employees, supervisors, elected officials and/or the Village Board of Ethics may be necessary to determine a proper course of action. To this end, Village Employees must be committed to working together to earn the confidence of the Village residents, fellow employees and those doing business with the Village.

§ 17-5. Conflicts of interest.

No Village employee shall have any interest, financial or otherwise direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of duties in the public interest, as specified below.

§ 17-6. Prohibited activities. [Amended 1-19-2006 by L.L. No. 3-2006]

A Village Employee who knowingly and/or intentionally engages in the following prohibited activities shall be penalized according to the provisions of this Code.

- A. No Village Employee shall accept other employment which will impair the employee's independence of judgment in the exercise of the employee's official duties.
- B. No Village Employee shall accept employment or engage in any business or professional activity which will require the employee to disclose confidential information gained by reason of official position or authority.
- C. No Village Employee, for a period of five (5) years after termination of service with the Village, shall appear before the Village, except on his or her own behalf, in relation to any case, proceeding or application in which the employee participated, unless specifically requested by the Village Board.
- D. No Village Employee shall engage in any transaction as representative or agent of the Village with any business entity in which the employee has a direct or indirect

financial interest that might reasonably tend to conflict with the proper discharge of the employee's official duties.

- E. No Village Employee shall, by the employee's conduct, give the reasonable impression that any person can improperly influence the employee or unduly enjoy the employee's favor in the performance of the employee's official duties or that the employee is affected by the kinship, rank, position or influence of any party or person.
- F. No Village Employee shall make personal investments in enterprises which the employee has reason to believe may be directly involved in decisions to be made by the employee or which will otherwise create substantial conflict between the employee's duty in the public interest and the employee's private interest.
- G. No Village Employee shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself/herself or others.
- H. No Village Employee shall directly or indirectly solicit, accept, or receive any gift or series of gifts from a single source within a calendar year having a value of One Hundred Dollars (\$100.00) or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise or in any other form, under circumstances in which the gift was intended to influence the employee in the performance of his or her official duties or was intended as a reward for any official action.
- I. No Village Employee shall use any Village personnel or any Village owned or leased equipment, materials, supplies or property for personal gain or benefit to the employee, the employee's family member or any other entity, except those which are generally available to all the citizens of the Village, without the prior knowledge and consent of the Village Board of Trustees. Nothing herein shall limit the Village's ability to assist the volunteer fire department that encompasses the Village.
- J. No Village Employee shall enter into an agreement with the Village to purchase goods or services having a value in excess of Five Hundred Dollars (\$500.00) per year from the employee, the employee's family member, or a company in which the employee has an interest unless: a) those goods or services are provided by the employee following a competitive bidding process, and b) the employee providing the goods or services files a Transactional Statement of Disclosure as prescribed in this Code.
- K. No Village Employee shall induce or assist another official or employee of the Village to violate any provisions of this Code.

- L. No Village Employee shall knowingly transfer any asset, interest or property for the purpose of concealing same from the disclosure required by this Code, while retaining an equitable interest therein.

§ 17-7. Duty to report.

Every Village Employee shall report promptly in writing to the Board of Ethics or the Village Attorney any action which is interpreted as an improper attempt to influence him or her in the conduct of his/her office or any action which appears to be a violation of this Code of Ethics. Any Village Employee reporting such actions shall be protected by the Village against reprisal for the lawful disclosure of such information.

§ 17-8. Penalties for offenses.

- A. The Board of Ethics may recommend a civil penalty in an amount of up to ten thousand dollars (\$10,000.00) against any Village Employee who knowingly and intentionally files a disclosure statement with intent to deceive or to otherwise fraudulently misrepresent or withhold material information, and such deception or misrepresentation is found to be both intentional and material.
- B. The Board of Ethics may recommend a warning, reprimand, suspension or removal from office or employment, and/or a civil penalty in an amount up to one thousand five hundred dollars (\$1,500.00) to any Village employee who knowingly and willfully:
 - 1) Fails to file, in a timely manner, any required statement(s) of disclosure.
 - 2) Violates any other prohibition contained in this law. The employee may also be liable in damages to the Village for any loss or increase in cost incurred by the Village because of said violation.
- C. For any violation of this law, the Village Board may in addition to the above:
 - 1) Impose a civil forfeiture of up to three times the financial value of any benefit derived from the violation.
 - 2) Refer the matter to the appropriate prosecutor.
- D. Upon the recommendation of the Board of Ethics or upon its own motion, the Village Board may impose additional disciplinary action as allowed by law.

- E. Any person aggrieved by a final decision made under this Code may seek judicial review pursuant to Article 78 of the CIVIL PRACTICE LAW AND RULES.

ARTICLE III
Board of Ethics

§ 17-9. Board established; membership; powers. [Amended 8-11-2016 by L.L. No. 1-2016]

- A. There is hereby established a Village of Alden Board of Ethics.
- B. The Board of Ethics shall consist of three (3) members each having a three (3) year term of office. Initially, one (1) member shall serve until March 31st of the first year; one (1) member shall serve until March 31st of the second year; and one (1) member shall serve until March 31st of the third year.
- C. Members shall be appointed by the Village Board. In the event a vacancy occurs prior to the expiration of any term, the Village Board, within three (3) months, shall fill the vacancy for the balance of the term in the same manner as members are appointed to full terms. All members shall reside in ~~the Village of Alden~~ and serve without compensation, except for necessary and reasonable expenses.
- D. Only one (1) member shall be a Village Employee.
- E. The members of the Board of Ethics shall elect a Chairperson, vice Chairperson and Secretary at its first meeting of each year.
- F. The Board of Ethics shall meet at least semi-annually. Additional meetings may be called by the Chairperson or a majority of all the members upon written seven (7) day notice to the remaining members of the Board of Ethics. A majority of the Board of Ethics, then appointed shall constitute a quorum.
- G. One (1) member shall be selected annually by lot for purposes of conducting preliminary investigations of complaints and report back to the full Board of Ethics. Alternatively, the Village Attorney may be called upon by the full Board to conduct any necessary investigations.
- H. Meetings of the Board of Ethics shall be open to the public, except meetings called to review disclosure statements, render advisory opinions, or to act upon complaints filed with the Board of Ethics. A meeting that would otherwise be

closed may be opened upon the request of the employee whose matter is being discussed.

- I. A Board of Ethics member may be removed by the Village Board after:
 - (1) Receipt of written notice of allegations of neglect of duty, gross misconduct, inability to discharge the powers and duties of the office or violation of this Code,
 - (2) An opportunity to reply, and
 - (3) A finding of neglect of duty, gross misconduct, inability to discharge the powers and duties of the office or violation of this Code.
- J. The Board of Ethics shall adopt and implement rules and regulations necessary for the internal implementation of this Code. It shall conduct its affairs in accordance with the New York State Administrative Procedure Act and General Municipal Law.
- K. The Board of Ethics shall possess, exercise and enjoy all the rights, powers, and privileges necessary to the enforcement of this Code of Ethics and as granted by the Village Board.

§ 17-10. Duties. [Amended 1-19-2006 by L.L. No. 4-2006]

- A. Advisory Opinions.
 - 1) Upon written request, the Board of Ethics shall render advisory opinions to any Village employee, to any Village agency, board, committee or department, or to entities seeking to do or doing business with the Village, as to questions or situations regarding the application of this Code.
 - 2) A request for an advisory opinion shall not be made public.
 - 3) Advisory opinions rendered by the Board of Ethics shall not be made public. However, if the Board of Ethics decides that the opinion rendered may benefit other employees of the Village, the Board of Ethics shall prepare and publish a summary of such opinion. All references to specific persons, places or the like shall be deleted before the opinion is made public.

- 4) Opinions that are not made public pursuant to the above procedure shall be redacted in accordance with the procedure set forth above and shall remain accessible to the Board of Ethics to guide it in future deliberations.

B. Review Statements of Disclosure.

- 1) The Board of Ethics shall be responsible for the review of all filed Statements of Disclosure. This review is to determine whether, pursuant to this code, a conflict of interest exists.
- 2) If the Board of Ethics decides that a conflict of interest exists, it shall notify the employee in writing of its findings. The employee shall appear before the Board of Ethics for the purpose of responding to the Board of Ethics's findings. After the hearing, the Board of Ethics shall affirm, affirm with modification, or vacate its initial findings. Upon a determination to affirm or affirm with modification its initial finding, the Board of Ethics shall forward such determination to the Village Board, recommending if necessary, penalties in accordance with this Code.

C. Complaints

- 1) The Board of Ethics shall receive, review, investigate, determine and act upon any written complaint alleging violations of this Code. A complaint must be signed by the person or legal entity alleging a violation of this Code.
- 2) The Board of Ethics shall refer a complaint to the individual investigator which will investigate and report back to the Board of Ethics.
- 3) Upon receiving the report of the Review Committee, the Board of Ethics shall dismiss the complaint if no credible evidence is found to support it. If credible evidence is found to support the complaint, a full formal hearing of the Board of Ethics must be held with written notice to all interested parties.
- 4) The employee who is the subject of the complaint must receive written notice of a full hearing of the Board of Ethics and appear. Any notice and hearing pursuant to this paragraph shall be governed by the provisions of the New York State Administrative Procedures Act as to such matters as proper notice and right to counsel, among others.
- 5) If the Board of Ethics finds the complaint not supported by a preponderance of credible evidence, the complaint must be dismissed and

shall not be made public. If the complaint is found to be supported by a preponderance of credible evidence, the Board of Ethics shall make a determination, setting forth its reasons, recommend a penalty, and forward it to the Village Board for consideration.

- 6) A written decision must be prepared for every complaint and shall include a summary of the evidence or information upon which the Board of Ethics based its decision and its recommendations.

D. Education.

- (1) The Board of Ethics shall assist with compliance with this Code by:
 - (a) Responding to written requests submitted by Village Employees as to the meaning of any portion of the Ethics Code.
 - (b) Developing training programs and materials on provisions and the intent of this Code for education of Village Employees and residents, as directed by the Village Board.

ARTICLE IV

Maintenance & Access of Records

[Amended 1-19-2006 by L.L. No. 5-2006]

§ 17-11. Records maintenance. [Amended 8-11-2016 by L.L. No. 1-2016]

- A. The Village Clerk's Office shall be the repository for all records generated in compliance with this code.
- B. All records, except advisory opinions, will be destroyed after seven (7) years from the date of filing.
- C. Records shall include, but not be limited to, the following:
 - (1) List of Village employees to be updated by May 31st of each year by the Village Clerk.
 - (2) Transactional Statements of Disclosure.
 - (3) Requests for advisory opinion.

- (4) Advisory opinions.
- (5) Complaints, investigations and determinations.

§ 17-12. Records access.

- A. Those records generated by this Code and the Board of Ethics shall be governed by the Freedom of Information Law of the State of New York.
- B. Records generated by this Code and the Board of Ethics as set forth herein are deemed to be documents the disclosure of which would violate an employee's privacy and are not open to public inspection. Documents exempt from disclosure shall include but not be limited to the following:
 - (1) Complaints against specific Village Employees and all materials related to such actions.
 - (2) Materials of any nature relating to ongoing investigations of the Board of Ethics.
 - (3) A request for an advisory opinion in accordance with this Code.
 - (4) Advisory opinions
- C. It shall be a violation of this Code for a Village Employee, to inspect or copy a publicly accessible document for any unlawful purpose or for purposes of charitable or political solicitation unless disclosure is permitted pursuant to any Freedom of Information Law.
- D. A Village Employee whose Disclosure form is accessed, pursuant to the above provisions, shall be promptly notified of such access by the Village Clerk.

ARTICLE V
Severability Clause

§ 17-13. Severability.

If any clause, sentence, paragraph, section or part of this Code shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause,

sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

ARTICLE VI
Disclosures
[Amended 1-19-2006 by L.L. No. 6-2006]

§ 17-14. Transactional statement of disclosure and recusal.

1. Whenever a Village Employee is requested or required to take action in his or her official capacity on a matter before the Village and presently knows a) that either the performance or nonperformance of that action would provide a monetary or material benefit to the employee or to a family member, different from that which would be derived from the action by reason of its general application to a broad class of persons deriving such benefit or b) the employee has or will have an interest in the matter, then the Village Employee shall promptly file a Transactional Statement of Disclosure as set forth herein and shall not participate or act in that matter.
2. Any Village Employee, prior to any final action being taken, who has or presently knows he or she will have an interest in any matter being considered by the Village will publicly disclose the nature and extent of such interest, file a Transactional Statement of Disclosure, setting forth the nature and extent of that interest~~z~~ with the Village Clerk.
3. Nothing in this section shall prohibit a Village Employee from performing a ministerial act or require a Village Employee to file a Transactional Statement of Disclosure required by paragraph one of this section prior to performing a ministerial act. The award of a contract by a Village Employee pursuant to the public bidding requirements of Section 103 of the General Municipal Law of the State of New York shall be deemed a ministerial act.